

**United States Bankruptcy Court
Eastern District of Pennsylvania**

In re:

Lucille Simpkins,

Debtor.

Case No. 23-11050-amc

Chapter 7

**Debtor's Motion for Waiver of Credit Counseling
and Financial Management Course Requirements**

AND NOW, Debtor Lucille Simpkins, by her proposed next friend and through her attorney, moves this Court for an order waiving her obligation to complete a credit counseling and financial management course. In support of this motion, the Debtor states as follows:

1. The Debtor filed this case under chapter 7 on April 11, 2023.
2. The voluntary petition was executed on the Debtor's behalf by her daughter, Terri Simpkins (the "Proposed Next Friend"), her proposed next friend in this case. A separate motion has been filed to approve her as next friend.
3. The Debtor suffers from dementia and other medical conditions which totally impair her capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of her financial affairs or to meet essential requirements of her physical health and safety. Exhibit A.
4. The bankruptcy code requires a debtor to take a credit counseling course prior to filing the case and a financial management course prior to receiving a discharge. 11 U.S.C. § 109(h)(1); 11 U.S.C. § 1328(g)(1).
5. The bankruptcy code allows excusal from credit counseling if the court determines, after notice and hearing, that the debtor is unable to comply with the requirement due to incapacity. 11 U.S.C. § 109(h)(4). Incapacity is defined as "[impairment] by reason of mental illness or mental deficiency so that [she] is incapable of realizing and making rational decisions with respect to [her] financial responsibilities." *Id.* The code provides the same standard for excusal from the pre-discharge financial management course. 11 U.S.C. § 1328(g)(2).

6. Because the Debtor's condition leaves her unable to receive and evaluate information effectively and communicate decisions such that she is incapable of realizing and making rational decisions with respect to her financial responsibilities, the Court should excuse her from the requirement of completing the credit counseling and financial management courses.

NOW, THEREFORE, the Debtor asks this Court to grant relief in the form of order attached and to grant such other relief in her favor as may be necessary and proper under the law.

Date: April 11, 2023

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